

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK and THE BOARD OF
EDUCATION FOR THE CITY SCHOOL
DISTRICT OF THE CITY OF NEW YORK,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
EDUCATION and ELISABETH DEVOS, in
her official capacity as the Secretary of
Education,

Defendants,

FOUNDATION FOR INDIVIDUAL RIGHTS
IN EDUCATION

[Proposed] Intervenor-Defendant.

Civil Action No. 1:20-cv-4260-JGK

FIRE’S MOTION TO INTERVENE AS DEFENDANT

Pursuant to Federal Rule of Civil Procedure 24, the Foundation for Individual Rights in Education (“FIRE”) respectfully moves to intervene as a defendant in this action. As explained in the memorandum of law that accompanies this motion, FIRE is entitled to intervene as of right and should also be granted permissive intervention. As required by Rule 24(c), an answer is attached to this motion. Counsel for FIRE contacted counsel for the parties, and Plaintiffs oppose this motion. Counsel for Defendants indicated that they would not take a position on the motion until after it is filed.

Dated: June 29, 2020

Respectfully submitted,

/s/ Charles J. Cooper

Charles J. Cooper (*pro hac vice* motion pending)
Brian W. Barnes (*pro hac vice motion* forthcoming)
Nicole J. Moss (*pro hac vice motion* forthcoming)
COOPER & KIRK, PLLC
1523 New Hampshire Ave., NW
Washington, D.C. 20036
(202) 220-9600
ccooper@cooperkirk.com
bbarnes@cooperkirk.com
nmoss@cooperkirk.com

*Counsel for Foundation for
Individual Rights in Education*

CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that such filing will accomplish service upon counsel of record in this case.

s/Charles J. Cooper
Charles J. Cooper*
COOPER & KIRK, PLLC
1523 New Hampshire Avenue, NW
Washington, DC 20036
(202) 220-9600
(202) 220-9601 (fax)
ccooper@cooperkirk.com

**Pro Hac Vice* application pending

*Attorney for Proposed
Intervenor-Defendant*